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09/836,976	04/18/2001	David W. Conrad	00RE098	9060

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EXAMINER

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GROUP 3600

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 13

Application Number: 09/836,976
Filing Date: April 18, 2001
Appellant(s): CONRAD ET AL.

John M. Ling
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1/06/2004.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct. The amendment merely returns claim 27 to the originally filed form.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The rejection of claims 1-27 stand or fall together.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,685,398	Marshall et al	11-1997
4,181,201	McCarthy	1-1980

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-27 are rejected under 35 U.S.C. 103. This rejection is set forth in prior Office Action, Paper No. 6.

(11) Response to Argument

Appellants state that the lever of Marshall et al is externally mounted. This is incorrect.

The examiner would like to note that the broadest claim of the appealed group, Claim 27, does NOT require the lever to be mounted internally or externally. Therefore, even if the appellants argument is correct, the claim is still properly rejected by the prior art.

The only part that is external in Marshall et al is the handle 312. But the instant invention also has the handle portion (figure 5 handle 540) mounted externally. The equivalent structure in Marshall et al, lever 314 is mounted in the same manner as the lever in the instant application (figure 5 lever 520). Furthermore, the lever of Marshall et al is mounted to the armature plate and field cup as required by claim 1.

Appellants further argue that the use of McCarthy does not result in a cam/lever assembly that pushes itself away from a fixed structure. Even if the Appellants argue is correct, there is no such requirement in the broadest claim of the group, independent claim 27, for such a structure. Additionally, there is no such limitation in independent claims 1,11,and 21. These claims state that the assembly "being operable to separate the armature plate from the friction disk", i.e. release the brake. There is no requirement for the assembly to push itself away from a structure. Appellants further argue that the combination does not produce a cam mounted on a lever. There is no such requirement

for the cam to be mounted on the lever in the broadest claim, Independent claim 27, nor is there such a limitation in Independent claims 1, 11, and 21.

Appellants argue that the cam 60 is required for the operation of the assembly. This is incorrect. The line cited by the Appellant discussed the interaction between the Electromagnetic release mechanism and the manual release mechanism. The cited measurement is merely to show that the electromagnetic release can still be operated when the manual mechanism has already been applied (an additional 1/16th of an inch is available for the solenoid to act, column 5 lines 3-8). The cam 60 is only used in such a manner as it pushes the lever 24 when it is pushed by the cam 88. The solenoid and the associated linkage is not part of the manual release mechanism and is not needed for its operation. Even if the appellants arguments are correct, there is no language in the claims excluding such an additional piece.

Appellants argue that the examiner has used the advantages stated by the Appellant in the specification as a basis of the rejection. This is incorrect. The examiner's motivation was to "provide a good mechanical advantage in a compact space". The examiner can not find this language in the specification nor does the Appellant cite where in the specification it appears.

The examiner would like to state that the appellant makes numerous arguments about details of the invention which are not present in the claim language. For example, instant claim 27:

A manual brake release system, comprising:

lever means for pulling an armature plate away from a friction disk;

Art Unit: 3683

cam means for providing a tilting action in the means for pulling in response to rotation of the cam means; and
means for rotating the cam means.

The claim does not state the cam has to be mounted on the lever or the cam pushes itself and the lever away from a fixed structure as the appellant has argued as a basis for reversal. For the examiner to agree with these arguments is improper because it incorporate limitations from the specification into the claim.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


Robert A. Siconolfi
Examiner
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RS
April 2, 2004

Conferees

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